

FILED
IN CLERKS OFFICE
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
2005 FEB -8 P 12:50

IN RE: PHARMACEUTICAL INDUSTRY AVERAGE
WHOLESALE PRICE LITIGATION

U.S. DISTRICT COURT
DISTRICT OF MASS.
MDL No. 1455
C.A. No. 01-12257-PBS

THIS DOCUMENT RELATES TO
ALL ACTIONS

Judge Patti B. Saris

**MOTION OF THE COMMONWEALTH OF PENNSYLVANIA
FOR LEAVE TO INTERVENE**

The Commonwealth of Pennsylvania by Thomas W. Corbett, Jr., in his capacity as Attorney General of the Commonwealth of Pennsylvania (the "Commonwealth"), by the undersigned counsel, moves this Court for an Order granting the Commonwealth leave to intervene for the limited purpose of objecting to Plaintiffs' Motion for Class Certification filed on September 3, 2004 and Plaintiffs' Amended Motion for Class Action Certification filed on December 17, 2004; and in support of this Motion, the Commonwealth relies on the facts and arguments set forth in the accompanying Memorandum of Law in support of the Commonwealth's Motion.

WHEREFORE, the Commonwealth respectfully requests that this Court grant it leave to intervene for this limited purpose.

RULE 7.1(A)(2) CERTIFICATION

Pursuant to LR, D.Mass. 7.1(a)(2), the undersigned counsel hereby certifies that the Intervening Plaintiff's counsel have notified all counsel via Verilaw of the intent to file this Motion in order to ascertain their positions regarding the requested relief. Given the time constraints, the Motion is being filed as contested subject to the consent, if any, of the various parties.

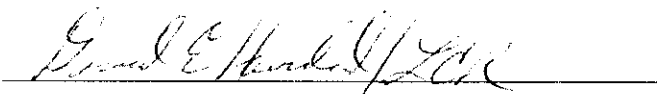
REQUEST FOR ORAL ARGUMENT

Pursuant to LR, D.Mass. 7.1(d), the Commonwealth states that it believes oral argument may assist the Court in resolving the issues presented by this Motion and therefore requests the Court conduct oral argument in connection with this Motion at the Court's convenience, unless the Court is inclined to grant the Motion on the papers.

Dated: February 8, 2005

Respectfully submitted,

Thomas W. Corbett, Jr., Attorney General
James Donahue, Chief Deputy
Christopher Abruzzo, Chief Deputy
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***SPECIALLY APPEARING COUNSEL FOR
INTERVENING PLAINTIFF, COMMONWEALTH OF
PENNSYLVANIA***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion of The Commonwealth of Pennsylvania for Leave to Intervene and Request for Oral Argument was served on all counsel of record by electronic service pursuant to Case Management Order No. 2.

Dated: February 8, 2005

Respectfully submitted,



Louis C. Ricciardi, Esquire

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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY AVERAGE
WHOLESALE PRICE LITIGATION

MDL No. 1456
C.A. No. 01-12257-PBS

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Judge Patti B. Saris

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF
THE COMMONWEALTH OF PENNSYLVANIA
FOR LEAVE TO INTERVENE**

The Commonwealth of Pennsylvania has filed an action in state court in Pennsylvania regarding the pricing of pharmaceuticals and seeks to represent its interests and those of its citizenry through prosecution of that action. *See Commonwealth of Pennsylvania v. TAP Pharmaceutical Products, Inc., et al.*, No. 212 MD 2004 (Pa. Commw. Ct.). Therefore, the Commonwealth seeks leave to intervene for the limited purpose of opposing Plaintiffs' Motion for Class Certification and Plaintiffs' Amended Motion for Class Certification in order to clarify for the Court and the record that plaintiffs herein do not represent the Commonwealth or its citizens and, thus, the Commonwealth opposes the entry of any Order on Class certification which would purport to give these plaintiffs such representative power. The basis for its motion for leave to intervene¹ is further set forth in the Memorandum of the Attorney General of the Commonwealth of Pennsylvania in Opposition to Class Certification, which is incorporated herein by reference.

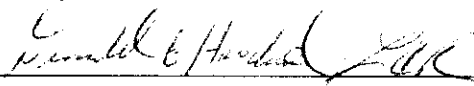
For the foregoing reasons, and for those reasons set forth in the Memorandum of the Attorney General of the Commonwealth of Pennsylvania in Opposition to Class Certification, which has been

¹ The Commonwealth seeks to intervene pursuant to both Rules 24(a)(2) and 24(b) of the Federal Rules of Civil Procedure.

incorporated herein by reference, the Commonwealth respectfully requests that the Court grant its motion for leave to intervene for limited purpose.

Dated: February 8, 2005

Respectfully submitted,



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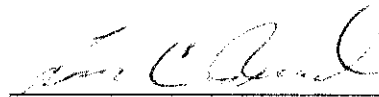
***SPECIALLY APPEARING COUNSEL FOR
INTERVENING PLAINTIFFS, VALERIE SAMSELL
AND MILTON GREENE***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Memorandum of Law in Support of Motion of the Commonwealth of Pennsylvania for Leave to Intervene was served on all counsel of record by electronic service pursuant to Case Management Order No. 2.

Dated: February 8, 2005

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Louis C. Ricciardi", is written over a horizontal line.

Louis C. Ricciardi, Esquire

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